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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,009	12/27/2000	Paul Giotta	FREI.P-049	6616
21121	7590	12/15/2005	EXAMINER	
OPPEDAHL AND LARSON LLP P O BOX 5068 DILLON, CO 80435-5068			DUONG, THOMAS	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,009

Applicant(s)

GIOTTA, PAUL

Examiner

Thomas Duong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the applicants Amendment filed on October 2, 2005.

Claims 1-21 are presented for further consideration and examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. *Claims 1-21* are rejected under 35 U.S.C. 103(a) as being unpatentable over Camp et al. (US006802067B1) and in view of Codella et al. (US006804818B1).

4. With regard to *claims 1, 7, 13, 17 and 20-21*, Camp discloses,

- *the message system being configured to receive messages from message producing clients and to forward messages to message consuming clients;*

(Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23)

Camp discloses a 'message logging framework' that "may be deployed at any architectural level requiring message logging capabilities within an enterprise wide computing system" (Camp, col.5, lines 13-15), and more specifically, "on an application server, which may be any of a number of commercially available computer servers appropriate for accessing backend systems (e.g., databases,

mainframes, customer premises equipment, and the like) to serve the needs of a client or group of clients (e.g., a user station, another server, etc.)” (Camp, col.5, lines 17-22). Hence, the Camp invention is capable of providing messages logging capabilities (e.g., messages exchange servers, bulletin boards, etc.) to serve the needs of a group of clients.

- *the message system comprising a server cluster containing a group of client manager nodes; (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23)*

Camp discloses a ‘*message logging framework*’ that includes “*a client or group of clients (e.g., a user station, another server, etc.)*” (Camp, col.5, lines 21-22).

Hence, Camp implies of a system where a group of clients may get access to the ‘*message logging framework*’ through an Internet service provider’s servers (i.e. client manager nodes), which provide connection management and access for the clients.

- *each client manager node of said group of client manager nodes comprising means for connecting to clients, means for managing client connections, and means for forwarding messages received from message producing clients to message manager nodes, and means for forwarding messages received from message manager nodes to message consuming clients; (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23)*

Camp discloses a ‘*message logging framework*’ that includes “*a client or group of clients (e.g., a user station, another server, etc.)*” (Camp, col.5, lines 21-22).

Hence, Camp implies of a system where a group of clients may get access to the ‘*message logging framework*’ through an Internet service provider’s servers (i.e.

client manager nodes), which provide connection management and access for the clients.

- *the server cluster further containing a group of message manager nodes being configured differently from the client manager nodes, (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23)*

Camp discloses a *'message logging framework'* that *"is deployed on an application server"* (Camp, col.5, line 17), which contains the *"log manager class [that] provides access to the underlying destination logs by their logical names, which further promotes the efficient logging of messages"* (Camp, col.5, lines 1-5).

- *each message manager node comprising means for storing and distributing messages, said messages comprising a destination information addressing a destination, (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16)*

Camp discloses a *"group log class [which] provides a means to multicast messages to a plurality of logs, that is to write a message to multiple destinations. In other words, group log class abstracts the underlying destination logs, ... [and it further] extends log collection class, which is an abstract class containing useful information and methods for creating and maintaining collection of logs (for example, methods to store and retrieve individual destination logs"* (Camp, col.5, lines 1-5). Hence, Camp implies of a *'message logging framework'* that provides messages logging between the log manager and the client manager via multicasting.

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- *the system further comprising communication channel means for providing a multicast communication channel for forwarding messages between said at least one client manager node and said at least one message manager node. (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16)*
Camp discloses a “group log class [which] provides a means to multicast messages to a plurality of logs, that is to write a message to multiple destinations. In other words, group log class abstracts the underlying destination logs, ... [and it further] extends log collection class, which is an abstract class containing useful information and methods for creating and maintaining collection of logs (for example, methods to store and retrieve individual destination logs” (Camp, col.5, lines 1-5). Hence, Camp implies of a ‘message logging framework’ that provides messages logging between the log manager and the client manager via multicasting.

However, Camp does not explicitly disclose,

- *said messages comprising a destination information addressing a destination, said destination being at least one of a queue and a topic;*

Codella teaches,

- *said messages comprising a destination information addressing a destination, said destination being at least one of a queue and a topic; (Codella, col.1, lines 27-39; col.15, line 61 – co.16, line 11)*

Codella teaches that “in JMS, a destination corresponds to a JMS destination, which in turn can be either a queue or a topic (for point-to-point and publish/subscribe, respectively)” (Codella, col.15, lines 61-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Codella with the teachings of Camp to provide a 'message logging framework' capable of utilizing the JMS's destinations, which can be either a queue or a topic to provide a message logging system using multicasting between the client manager and the message manager.

5. With regard to claims 2-3, 8-10, 14-16, and 18-19, Camp and Codella disclose,

- *a plurality of message manager nodes in said group of message manager nodes,*
- *said message manager nodes being configured to comprise destinations, said destinations being at least one of a queue and a topic.*
- *said system further comprising a plurality of client manager nodes.*
- *each client manager node comprising computer program code means for sending message data across said multicast communication channel,*
- *said message data containing a destination information and not containing an individual address of a message manager node,*
- *each message manager node comprising computer program code means for receiving message data comprising destination information matching a destination of the message manager, and for maintaining said destination, said destination being at least one of a queue and a topic. (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16; Codella, col.1, lines 27-39; col.15, line 61 – co.16, line 11)*

6. With regard to claims 4-6, Camp and Codella disclose,

- *where the number of the client manager nodes of said group of client manager nodes is independent from the number of the message manager nodes of said group of message managers. (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16; Codella, col.1, lines 27-39; col.15, line 61 – co.16, line 11)*
- *in which not all possible pairs of nodes in the server cluster are required to exchange data directly. (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16; Codella, col.1, lines 27-39; col.15, line 61 – co.16, line 11)*
- *in which a reliable multicast communications protocol is used for inter-node data transfer, in which a plurality of message manager nodes is provided, wherein at least two message manager nodes are configured to contain identical destinations to maintain one or more identical, redundant copies of stored data received in the same multicast transmission from a client manager as the original copy of stored data. (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16; Codella, col.1, lines 27-39; col.15, line 61 – co.16, line 11)*

7. With regard to claims 11-12, Camp and Codella disclose,

- *wherein, if the message size exceeds a maximum message size value, said message to be transmitted between said message client and said message manager is fragmented by the message manager or by the message client and sent as a separate command. (Camp, col.1, line 37 – col.2, line 19; col.4, line 44*

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– col.5, line 23; col.13, lines 6-16; Codella, col.1, lines 27-39; col.15, line 61 –
co.16, line 11)

- *wherein at least two multicast communication channels are present, and wherein either every client manager node is connected to all of said multicast communication channels and every message manager node is connected to only one of said multicast communication channels or every message manager node is connected to all of said multicast communication channels and every client manager node is connected to only one of said multicast communication channels.* (Camp, col.1, line 37 – col.2, line 19; col.4, line 44 – col.5, line 23; col.13, lines 6-16; Codella, col.1, lines 27-39; col.15, line 61 – co.16, line 11)

Response to Arguments

8. Applicant's representatives' arguments with respect to *claims 1-21* have been considered but they are not persuasive.
9. With regard to *claims 1-21*, the Applicant's representatives point out that:
 - *The teaching could not have been combined until October 12, 2004, more than three years after the filing date of the application. It is noted that each of these reference was cited by the Examiner for the first time in the June 1, 2005 Office Action neither had been cited in the March 8, 2004 Office Action nor in the October 1, 2004 Office Action. The reason for this late citation by the Examiner is apparent - Camp was first available to the public only on October 5, 2004 and Codella was first available to the public only on October 12, 2004.*

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However, the Examiner finds that the Applicant's representatives arguments are not persuasive, because according to 35 U.S.C. 103(a), which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

In addition, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Following the guidelines set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), the Examiner presented the 35 U.S.C. 103(a) rejection as stated above.

10. With regard to claims 1-21, the Applicant's representatives point out that:

- *The invention was, in any even, made prior to the filing date of Camp. Camp was filed October 27, 2000, and the invention was made prior to that date, as will now be shown.*

However, the Examiner finds that the Applicant's representatives' arguments are not persuasive, because the Applicant's representative's Exhibit B, with which the

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representative bases his argument on the valid date of the claimed invention, is illegible rendering it impossible for the Examiner to determine the document's validity.

11. In addition, the Examiner suggests that the Applicant's representatives review the following sections of the MPEP for the proper course of actions regarding the unique nature of this application.

409.01 Death of Inventor

Unless a power of attorney is coupled with an interest (i.e., an attorney is assignee or part-assignee), the death of the inventor (or one of the joint inventors) terminates the power of attorney given by the deceased inventor. A new power from the heirs, administrators, executors, or assignees is necessary if the deceased inventor is the sole inventor or all powers of attorney in the application have been terminated (but see MPEP § 409.01(f)). See also 37 CFR 1.422.

409.01(a) Prosecution by Administrator or Executor***35 U.S.C. 117. Death or incapacity of inventor***

Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

37 CFR 1.42. When the inventor is dead.

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

One who has reason to believe that he or she will be appointed legal representative of a deceased inventor may apply for a patent as legal representative in accordance with 37 CFR 1.42.

Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and the estate was under the sum required by state law for the appointment of an administrator. The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64.

409.01(b) Proof of Authority of Administrator or Executor

The Office no longer requires proof of authority of the legal representative of a deceased or incapacitated inventor. Although the Office does not require proof of authority to be filed, any person acting as a legal representative of a deceased or incapacitated inventor should ensure that he or she is properly acting in such a capacity.

409.01(c) After Administrator or Executor Has Been Discharged

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When an administrator or executor has performed his or her functions and has been discharged and it is desired to make an application for an invention of the deceased, it is necessary for the administrator or executor to take out new letters of administration in order that he or she may file a new application for an invention of the deceased inventor.

409.01(d) Exception in Some Foreign Countries

The terms "Executor" and "Administrator" do not have exact counterparts in all foreign countries, and therefore, those terms must be construed to fit the circumstances of the case. Hence, the person or persons having authority corresponding to that of executor or administrator are permitted to make application as, for example, the heirs in the Federal Republic of Germany where no existing executor or administrator has been or will be appointed.

409.01(e) If Applicant of Assigned Application Dies

When an applicant who has prosecuted an application after assignment, dies, the administrator of the deceased applicant's estate may carry on the prosecution upon filing letters of administration unless and until the assignee intervenes (MPEP § 402.07).

Therefore, the Applicant's representatives still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

Conclusion

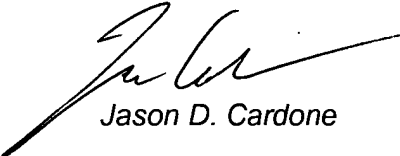
12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason D. Cardone can be reached on 571/272-3933. The fax phone numbers for the organization where this application or proceeding is assigned are 571/273-8300 for regular communications and 571/273-8300 for After Final communications.

Thomas Duong (AU2145)

December 11, 2005

A handwritten signature in black ink, appearing to read 'Jason D. Cardone', written over the printed name.

Jason D. Cardone

Supervisory PE (AU2145)